

Unapproved

Salem Planning and Zoning Commission
January 19, 2010

Present: Amato, R.
Bingham, D. – left at 8:43 pm
Buckley, K.
Chinatti, M. – Town Planner/ZEO
Fogarty, G., Alt.
McKenney, H.
Nikirk, G.
Savalle, R.
Smith, V., Alt.
Walter, G.

Absent: Vacancy, Alt.

Guests: see attached.

CALL TO ORDER:

Chairman H. McKenney:

- Called the meeting to order at 7:00 pm,
- Introduced all members and staff present, and
- Informed all present that the Renz public hearings (#2) and #3) on tonight's agenda) have been rescheduled to the 2/16/10 PZC meeting, and that due to the fact that the Commission members had not received their meeting packages as yet, he recommends that no decisions be made this evening on public hearings #1) Salem Recreation Commission and #4) Kobyluck Brothers, LLC.

ADDITIONS TO THE AGENDA:

There were no *ADDITIONS TO THE AGENDA* this evening.

PUBLIC HEARINGS:

The chairman reviewed the Salem Planning and Zoning Commission
Public Hearing Procedures.

Legal Notices for all four (4) public hearings read.

All Certificates of Mail have been received
as per the Regulations.

1) **Salem Recreation Commission (Spang) - Site plan application (SP#09-11-01) for a portion (Forsyth Road site) of Map #8; Lot #21, commonly known as the Gadbois property, 89 Norwich Road**

M. Chinatti, Town Planner/ZEO:

This site plan application is a conceptual plan for the recreation area at the Forsyth Road site of the town-owned Gadbois property.

The Recreation Commission had previously received PZC site plan approval for the present soccer fields on the site.

This conceptual site plan is a modification of the site plan for the soccer fields to include a parking lot, driveway, pavilion, concession stand, two (2) volleyball courts, two (2) horseshoe pits, and a playscape.

The Inland Wetlands and Conservation Commission approved the conceptual site plan in November 2009.

Planner/ZEO review of the revised plans (*see Report on Agenda Items - January 19, 2010 Meeting* attached to this copy of the minutes).

S. Spang, Recreation Commission chair, appeared:

This site plan is a ten-year conceptual plan created by the Recreation Commission for the Forsyth Road recreation site of the Gadbois property.

Two (2) approved soccer fields are already constructed on the site and more parking is needed.

More parking will also be required for the other activities the Commission hopes to develop there.

The Town Planner/ZEO has stated that the modifications required to the plan are minor and can be a part of the approval process.

W. Thomas of Nathan Jacobsen Engineering, Town Engineer, appeared:

Presented site plan, as yet not revised, for Commission review.

Public comments:

- C. Traggis, 21 Forsyth Road - How long will the driveway be? (only along the treeline as shown on the plans); Will there be any changes made to Forsyth Road? (no); Will there be lavatories at the location? (a septic system would be installed at a later time); How will trash be handled? (coaches; public works takes care of the trash barrels).

At this time, H. McKenney, chairman, stated that his property at 33 Woodland Drive abuts the Gadbois property, but feels that since this site is on the Forsyth Road section and at the other end of the property, he has no conflict.

- L. Farley, 67 & 69 Forsyth Road - What is the budget for these improvements? (there is no budget proposal; this is just a conceptual plan, many rec

projects have been accomplished by parent volunteers, the Salem Public Works Department and grant money applied for by the Recreation Commission), Expressed concerns in regard to the speed of cars on Forsyth Road; Will acreage be cleared? (no additional clearing is planned).

- L. Good - 57 Forsyth Road - Not opposed to recreation, but it can be good and if it's bad it can impact the value of her property; concerned with the speed of cars on Forsyth and security at the site.
- M. Huhn, 15 Forsyth Road - What would be the use for the pavilion on the site? (shelter, for picnics, townspeople use) Will there be walking sites? (the town's Open Space Plan has a plan for walking trails); Concerns in regard to increased traffic on Forsyth Road.
- J. Walsh, 551 New London Road - Feels that this is a great project; he is for the plan; feels that a gate would be a good idea.
- T. Lata, 83 Forsyth Road - Not for or against the plan; Is this a prelude to a high school in town? (no) What is the cost of the project? (the PZC looks only at land use); security, road conditions, snow fencing need to be addressed for the site; the ATV problems were never addressed.
- P. Lee, 16 Emerald Glen Lane - He also has speed problems on his street; he has worked as a volunteer coaching in the youth leagues; this plan is a positive step for the town; cameras were placed at the Round Hill Recreation site due to vandalism and they can be put up on this site.
- M. O'Shaughnessy, 91 Valley Drive - Volunteer soccer coach; in favor of the plan; the Forsyth Road soccer fields have been a great asset to the program.
- R. Appleby, 59 Skyline Drive - Suggested that by a show of hands the guests at the meeting show who is for or against the plan. (the Commission felt that each guest should make their own comments).
- T. Patterson, 82 Corrina Lane - Supports the plan.
- R. Lyall, 173 Beckwith Hill Drive - Supports the plan.
- D. Griffith, 110 Music Vale Road - Fully supports the plan.
- R. K. Bingham, 42 Round Hill Road - Lives across the street from the Round Hill Recreation Area and has had no problems whatsoever.
- N. Belleville, 36 Round Hill Road - The signs that have been placed on Round Hill Road in the Recreation Area's vicinity have reduced the speed of the cars; supports the Forsyth Road Recreation Area plan.
- M. Weber, 60 Sullivan Road - Supports the plan.
- C. Traggis, 21 Forsyth Road - Will hunting be allowed? (no hunting of any kind is allowed on the Gadbois property).
- R. Cirillo, 355 Round Hill Road - Supports the project.
- L. Good, 57 Forsyth Road - Gates should be a priority for the site; speed should be addressed as Forsyth Road is a speedway from the Montville town line to Route 85.
- E. Burke, 121 Buckley Road - Supports the project 100%.
- E. Lane, 39 Cockle Hill Road - Concerns that there should be fencing between the soccer fields and parking area.

S. Spang, in regard to issues brought up by the public comments:

- Safety:

Everyone knows that Forsyth Road is a fast road and a shortcut from Montville to Route 85; feels that it is an enforcement issue and the Recreation Commission will work with the Resident State Troopers on this matter.

- Security:

The Recreation Commission has placed boulders at the Round Hill Rec Area so that cars have no access to the baseball and soccer fields; security cameras have also been placed at the site. Security will be addressed for the Forsyth road site also.

The Recreation Commission is open to any suggestions from townspeople.

Brief discussion regarding hunting; it may need to be addressed.

The Public Works Department needs to provide remarks concerning speed on Forsyth Road.

Request for a 45-day extension received from the applicant.

M/S/C (Bingham/Buckley) to accept the 45-day extension request from the Recreation Commission. Vote: approved unanimously.

M/S/C (McKenney/Bingham) to continue the public hearing on the Salem Recreation Commission's (Spang) site plan application (SP#09-11-01) for a portion (Forsyth Road site) of Map #8; Lot #21, commonly known as the Gadbois property, 89 Norwich Road to the February 16, 2010 Salem Planning and Zoning Commission Regular Meeting agenda. Vote: approved unanimously.

The Commission took a five (5) minute recess.

D. Bingham recused himself and left the meeting.

- 2) Renz - Resubdivision application (RS#09-11-01) for a five (5) lot resubdivision at 615 Hartford Road
- 3) Renz - Special Exception application (SE#09-11-01) for a common driveway for the five (5) lot resubdivision proposed for 615 Hartford Road

M/S/C (McKenney/Nikirk) to reschedule the following public hearings:

- Renz - Resubdivision application (RS#09-11-01) for a five (5) lot resubdivision at 615 Hartford Road, and
- Renz - Special Exception application (SE#09-11-01) for a common driveway for the five (5) lot resubdivision proposed for 615 Hartford Road

to the February 16, 2010 Regular Meeting of the Salem Planning and Zoning Commission.
Vote: approved unanimously.

Due to the fact that the scheduled site walk of the property did not take place, the Commission discussed setting another site walk of the Renz resubdivision\common driveway site and took the following action:

M/S/C (McKenney/Buckley) to walk the site proposed for the Renz resubdivision/common driveway (615 Hartford Road) on January 30, 2010 at 10:00 am. Vote: approved unanimously.

With the Commission's consensus, the chair
seated V. Smith for D. Bingham.

4) Kobyluck Brothers, LLC - Special Exception Renewal for an excavation operation at 209 Rattlesnake Ledge Road postponed from 12/15/09

M. Chinatti, Town Planner/ZEO:

This public hearing was scheduled for 12/15/09, but due to the lack of notification to abutters by the applicant, it was rescheduled to this evening.

Section 14.6 of the Zoning Regulations states that the Commission may schedule a public hearing for any renewal of a Special Exception for an excavation.

W. Thomas of Nathan Jacobson & Associates, Town Engineers, appeared:

Discussion in regard to his letter to the Salem PZC of January 19, 2010 in regard to the Kobyluck Quarry, Rattlesnake Ledge Road, NLJ #0873-0016 (see attached to the filed copy of these minutes).

M. Kobyluck, Kobyluck Brothers, LLC, appeared:

The reason we are here this evening is because Section 14.6 of the Salem Zoning Regulations states that the PZC can either grant an excavation renewal request or request a public hearing.

H. McKenney:

Renewal is granted as long as the excavation is "proceeding according to the approved plan." If the Commission believes it is not, a public hearing can be held.

M. Kobyluck:

Review of subsections of Section 14.6, which constitute a complete application for renewal:

- a) through d) - he has completed;
- e) No new activity is proposed;

- f) He has different views than the Commission as to how this Monitoring and Inspection Fee should be determined;
- g) He does not use these slips between the sister companies;
- h) Bonding is in place;
- i) A Traffic Study was not requested; and
- j) and k) are not applicable.

M. Chinatti, Town Planner/ZEO:

CLA, Kobyluck's engineering firm, and W. Thomas, Nathan Jacobson & Assoc., the Town Engineer, need to meet and discuss the matter of how many cubic yards are left to be removed from the site. Their numbers do not match.

M. Kobyluck:

In the matter of how many cubic yards are left to be removed from the site, he stated that he would agree to the higher amount. Stated again that he is not proposing any new activity or new grades and he does not concur with W. Thomas's determination of over-excavation.

H. McKenney:

Reiterated that it is CLA and Nathan Jacobson who must decide what it takes to meet the approved site plan.

M. Kobyluck:

He believes that he meets the requirements of Section 11.4 *FINDINGS*, which must be satisfied in order to grant a Special Exception.

Public Comments:

- C. Philopena, 309 Rattlesnake Ledge Road - Kobyluck does not meet the requirements of Section 11.4 of the Zoning Regulations; there has been permanent depreciation on a number of properties on the top of Rattlesnake Ledge Road due to the operation of the quarry.
- J. Dytko, 279 Rattlesnake Ledge Road - The blasting shakes his house; the quarry should be under a Cease & Desist Order.
- N. Dytko, 279 Rattlesnake Ledge Road - Reviewed each of the eleven requirements of Section 11.4 stating why the quarry did not meet any of the requirements; if this application is approved, Mr. Kobyluck should be required to have a public hearing every year for a renewal.
- T. Lane, 39 Cockle Hill Road - Lives one (1) mile away from the quarry, but he feels the blasting, hears the machinery and hears and sees the quarry's trucks on Rattlesnake Ledge Road; the roadway going west is falling apart; in a moderate or heavy rain, the water which flows into the brook by the Transfer Station is grey; How long will the quarry last? (it depends on how fast the material is removed).

- L. Roberge, 320 Round Hill Road - Why is such a large business in this rural area? (In the 1950s, the farmers, who were the majority of residents in Salem, had excavations for their farm operation. This area was previously approved. It had been quarried at a much lower intensity in the past.) She hears the loud blasts and has cracks in her cellar and ceilings.
- D. Alfonso, 295 Rattlesnake Ledge Road - When Kobyluck came into the quarry, the dust began. It was throughout her house and on her fields where she kept horses. One of her horses started having respiratory problems and has since died. She has cracks in the beams in her house; she only gets calls from Kobyluck for the big blasts, not the small ones.
- J. Cunningham, 28 Cockle Hill Road - When does the yearly permit run out? (an Excavation Permit runs from May 1 - April 30); Mr. Kobyluck is not very truthful as every single truck could not weigh the same amount all the time; the roads are in bad shape from the trucks; against this renewal.
- M. McKiernan, 317 Rattlesnake Ledge Road - Has lived in Salem since 1977 and it was very peaceful until this industrial operation began; we have dust in the air, cracks in our ceilings, garage floors. Too many people are being negatively affected by this quarry.
- T. J. Butcher, 248 Norwich Road - Kobyluck has not been a good neighbor to Salem; he (Mr. Butcher) does not know the PZC legalities, but Kobyluck's relationship with Salem should be ended.
- E. Lane, 39 Cockle Hill Road - While sitting on her porch having her morning coffee, all she hears are the quarry's trucks being loaded and coming down Rattlesnake Ledge Road. She also feels the blasts.
- S. Philopena, 309 Rattlesnake Ledge Road - When Getty or Smallwood worked this quarry, you never knew they were there; since Kobyluck bought the site there has been constant noise and traffic.
- C. Philopena, 309 Rattlesnake Ledge Road - In regard to the eight (8) findings in the Zoning Regulations, do all eight (8) have to be met? (yes)
- N. Dytko, 279 Rattlesnake ledge Road - We should have a show of hands to see who here wants this operation; Getty, Smallwood, former owners, only ran one (1) truck a day. After she counted one hundred (100) trucks on one Saturday, she gave up counting.

M. Kobyluck stated that he had no further comments.

Commission comment asking M. Kobyluck why he must work the site so aggressively.

Mr. Kobyluck stated that his business of material supply is market driven. It's a business everybody needs, but nobody wants.

M/S/C (Buckley/Savalle) to continue the public hearing for the Kobyluck Brothers, LLC Special Exception renewal for an excavation operation at 209 Rattlesnake Ledge Road to the February 23, 2010 Salem Planning and Zoning Commission meeting. Vote: approved unanimously.

PETITIONERS:

- 1) **Dutch & Associates - Request for reduction of width of road for Carvalho subdivision - Buckley Road**

M. Chinatti, Town Planner/ZEO:

The Carvalho subdivision will span both the Towns of Salem and Colchester.

Two (2) lots and the part of the road in Salem have been approved by the Salem IWCC and the PZC. They are now going through the process of approvals in Colchester.

They have requested a reduction in the road width from twenty-six (26) feet, as approved, to twenty-four (24) feet. The same request has been made to the Town of Colchester.

D. Bourdeau, Jr., Salem PW Director, has no objection as Salem has a twenty-two (22) feet minimum for road width.

C. Dutch, Dutch & Associates, applicant's representative, appeared before the Commission:

The ponds on the plan are designed for runoff from a 26 ft. width road. With the road width at 24 feet, there will be less impervious surface runoff.

If Colchester does not agree to the 24 feet width, the plan will remain at 26 feet.

At this time, the subdivision plan was reviewed so as to acquaint the new Commission members with it.

G. Nikirk left the meeting.

M/S/C (McKenney/Buckley) to approve the request for a reduction of the road width for the Carvalho two (2) lot subdivision on Buckley Road from twenty-six (26) feet to twenty-four (24) feet with the understanding that the road width shall remain twenty-six (26) feet if the Colchester portion of the road is not approved to be twenty-four (24) feet. Vote: approved unanimously.

PUBLIC COMMENTS:

There were no *PUBLIC COMMENTS* this evening.

OLD BUSINESS:

There was no *OLD BUSINESS* this evening.

NEW BUSINESS:

- 1) **2010/2011 PZC Budget**

M/S/C (McKenney/Savalle) to table discussion of the 2010/2011 PZC Budget to the January 26, 2010 Planning and Zoning Commission meeting agenda. Vote: approved unanimously.

ENFORCEMENT OFFICER'S REPORT/INLAND WETLANDS AND CONSERVATION COMMISSION REPORT: (See attached to the filed copy of these minutes.)

M. Chinatti, Town Planner/ZEO/WEO, added the following:

- The Zoning Board of Appeals has received an application for a variance to convert a seasonal use to year round use; the hearing date is 1/28/10.
- The EPA Grant both Montville and Salem were applying for has been halted as Montville did not approve the \$2,000 required by each town. She has found another EPA grant, of a little less money, for which to apply.

APPROVAL OF MINUTES OF PREVIOUS MEETING(S):

- 1) November 24, 2009 - Regular Meeting
- 2) December 15, 2009 - Regular Meeting

M/S/C (Amato/Buckley) to table the *APPROVAL OF MINUTES OF PREVIOUS MEETINGS* to the January 26, 2010 Salem Planning and Zoning Commission agenda. Vote: approved unanimously.

EXECUTIVE SESSION: (if needed)

M/S/C (McKenney/Buckley) to go into Executive Session at 10:35 pm to discuss pending litigation for 1) 160 Old Colchester Road and 2) Kobyluck and include M. Chinatti, Town Planner/ZEO/WEO and D. McTigue, PZC Administrative Assistant/Recording Secretary. Vote: approved unanimously.

Present at Executive Sessions:

R. Amato, K. Buckley, G. Fogarty, H. McKenzie, R. Savalle, V. Smith, and G. Walter.

Present at the Commission's pleasure:

M. Chinatti, Town Planner/ZEO/WEO and D. McTigue, PZC Administrative Assistant/Recording Secretary.

- 1) Pending litigation (160 Old Colchester Road)
- 2) Pending litigation (Kobyluck)

NO ACTION TAKEN.

M/S/C (McKenney/Savalle) to come out of Executive Session at 10:50 pm. Vote: approved unanimously.

PLUS DELTAS:

Due to the lateness of the hour, there were no *PLUS DELTAS* discussed this evening.

CORRESPONDENCE:

With the Commission's consent, all *CORRESPONDENCE* was tabled to the 1/26/10 PZC meeting agenda.

ADJOURNMENT:

M/S/C (Buckley/Savalle) to adjourn the meeting at 10:55 pm. Vote: approved unanimously.

Doris McTigue, Administrative Assistant/ Recording Secretary